

## REMARKS

The Applicants respectfully request reconsideration of this application in view of the above amendments and the following remarks.

### **35 U.S.C. §103(a) Rejection – Poisner ‘669, Krancher**

The Examiner has rejected claims 1-7, 9, 23, 24 and 26-32 (and apparently also 10-17 since these claims are addressed in the body of the rejection) under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,076,669 issued to Poisner (hereinafter “Poisner ‘669”) in view of U.S. Patent No. 6,799,237 issued to Krancher (hereinafter “Krancher”).

Applicants hereby respectfully remove Poisner ‘669 as a reference.

In accordance with 35 U.S.C. §103(c)(1), “[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.”

Poisner ‘669 was granted on July 11, 2006 based on an application for patent filed by another in the U.S. on April 15, 2002. The April 15, 2002 filing date precedes the August 18, 2003 filing date of the present patent application. Applicants respectfully submit that Poisner ‘669 only qualifies as prior art under one or more of subsections (e), (f), and (g) of section 102.

In support of the required common ownership under 35 U.S.C. 103(c), it is hereby averred that the present patent application and the subject matter in Poisner ‘669 were, at the time the claimed invention was made, owned by the same organization or subject to an obligation of assignment to the same organization. The Applicants submit that such statement alone is sufficient

evidence to establish common ownership of, or obligation of assignment to, the same organization. See M.P.E.P. 706.02(I)(2)(II).

Accordingly the Applicants respectfully submit that Poisner '669 has been removed as a valid reference under 35 U.S.C. 103(a) against the claims of the present patent application.

Accordingly, the rejection is believed to be moot.

### **35 U.S.C. §103(a) Rejection – Poisner '669, Krancher, Poisner '143**

The Examiner has rejected claims 18 and 19 under 35 U.S.C. §103(a) as being unpatentable over Poisner '669 in view of Krancher and further in view of U.S. Publication No. 2004/0268143 to Poisner (hereinafter "Poisner '143").

As discussed above, Poisner '669 has been removed as a valid reference under 35 U.S.C. 103(a) against the claims of the present patent application.

Accordingly, the rejection is believed to be moot.

### **35 U.S.C. §103(a) Rejection – Poisner '669, Krancher, Poisner '143, and Probst**

The Examiner has rejected claims 20-22 under 35 U.S.C. §103(a) as being unpatentable over Poisner '669 in view of Krancher and Poisner '143 and further in view of U.S. Patent No. 5,982,899 issued to Probst (hereinafter "Probst").

As discussed above, Poisner '669 has been removed as a valid reference under 35 U.S.C. 103(a) against the claims of the present patent application.

Accordingly, the rejection is believed to be moot.

**35 U.S.C. §103(a) Rejection – Poisner ‘669, Krancher, Yanagisawa**

The Examiner has rejected claim 25 under 35 U.S.C. §103(a) as being unpatentable over Poisner ‘669 in view of Krancher and further in view of U.S. Patent No. 6,519,669 issued to Yanagisawa (hereinafter “Yanagisawa”).

As discussed above, Poisner ‘669 has been removed as a valid reference under 35 U.S.C. 103(a) against the claims of the present patent application.

Accordingly, the rejection is believed to be moot.

### **Conclusion**

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the cited art of record and are in condition for allowance. Applicants respectfully request that the rejections be withdrawn and the claims be allowed at the earliest possible date.

### **Request For Telephone Interview**

The Examiner is invited to call Brent E. Vecchia at (303) 740-1980 if there remains any issue with allowance of the case.

### **Request For An Extension Of Time**

The Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17 for such an extension.

### **Charge Our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 1/6/09

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